

ARGUMENTS/REMARKS

Applicant has reviewed the above-identified patent application in light of the final Office Action and Advisory Action referred to above. In view of the amendments and arguments presented herein, Applicant respectfully submits that the claims are in condition for allowance.

Claims 11-15, 21-30, and 32-39 have most recently been rejected under 35 U.S.C. §103(a) as being unpatentable over Gebert, in view of Ball ‘241, U.S. Patent No. 4,890,967 to Rosenbaum (“Rosenbaum”), and Holt. Claims 16-20 have been rejected as being unpatentable over Gebert, in view of Ball ‘241, Rosenbaum, Holt and further in view of Ball ‘931. Further, Claim 31 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Gebert, in view of Ball ‘241, Rosenbaum, Holt and further in view of Delanoy. Claims 40-44 have been added.

Claims 11-27, 29, 30, 32-38, and 40-43 are pending.

Claim Rejection - 35 U.S.C. §103(a)

The Examiner has previously rejected Claims 11-15, 21-30, 32, and 39 as being obvious in view of a combination of Gebert, Ball ‘214, Rosenbaum, and Holt. The Examiner asserted that Gebert discloses the majority of the claimed subject matter, i.e., an overflow assembly and Ball ‘241 discloses the use of diaphragm in connection with the overflow assembly. Newly-cited Rosenbaum has been cited disclosing direct engagement between a cap (30) and a nut (12) via a plurality of lugs (14) on the nut. Applicant disagrees with this characterization of Rosenbaum. More specifically, Rosenbaum discloses a cover that interconnects to a retainer made of a resilient compressible material. The retainer has legs that align with flats of a bolt head or a nut to which the cap is designed to conceal.

The Examiner has mischaracterized Rosenbaum. More specifically, attention is directed to Fig. 2, that shows a retainer (20) interconnected to a head of a bolt (12) (see Fig.3). The retainer (20) has a plurality of legs (22) that each have a rib (24). In practice, the retainer is placed upon the head of the bolt wherein the legs are engaged onto the flats (14) of the bolt. The flats of the bolt head are not “lugs” of a nut as claimed. The cap (30)

is then interconnected to the retainer wherein the inner surface (32) of the cap (30) is engaged onto the ribs (24). Nowhere in Rosenbaum is the teaching of a nut, or the head of a bolt, that possesses a plurality of lugs that detachably engage with the cap as found in Claim 1, for example.

As in Gebert, Rosenbaum contemplates a multipart system for interconnecting the cap to the overflow port. Gebert and Rosenbaum do not disclose a nut that has a plurality of lugs that directly interface with a cap in a detachable manner. Further, the portion of Holt cited by the Examiner does not concern the mechanism employed to interconnect the cap to the nut.

Thus, the Examiner has failed to show *prima facie* obviousness as the references cited do not teach each and every one of the elements claimed. CFMT, Inc. v. Yieldup Int'l Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003). Accordingly, it is believed that Claims 11, 21, and 24 are allowable as the Examiner has not provided references that when combined teach each and every one of the elements claimed. Furthermore, Claims 12-15, 22, 23, 25-27, 29, 30, and 32 are believed to be allowable as they depend on an allowable base claim and Claims 28 and 39 have been cancelled, thereby rendering the rejection moot.

Claims 16-20 have been rejected as being obvious in view of a combination of Gebert, Ball '241, Rosenbaum, Holt, and Ball '931, wherein Ball '931 has been cited for disclosing the claimed drain system. Reference is made to the arguments regarding Rosenbaum provided above and it is respectfully asserted that the combination of references does not meet the Examiner's burden of *prima facie* obviousness. That is, the cited combination does not include all of the elements found in the claims. Thus withdrawal of this rejection is respectfully requested.

Claim 31 has been rejected as being obvious in view of a combination of Gebert, Ball '241, Rosenbaum, Holt, and Delanoy. Withdrawal of this rejection is respectfully requested as Claim 31 has been cancelled.

New Claims

Claims 40-44 have been added and are directed to another embodiment of the present invention that is believed to be allowable over the prior art of record. More specifically, Claim 40, similar to independent Claims 11, 21, 24, and 36, requires a nut element having at least one lug extending radially therefrom. None of the prior art of

record discloses a nut having at least one lug extending radially therefrom that detachably receives a nut. Thus it is believed that Claim 40 is allowable. Further, Claims 41-44 are believed allowable as they depend on an allowable Claim 40.

Respectfully submitted,

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Date: March 8, 2011